

**DECLARATION OF COVENANTS,
 CONDITIONS, AND RESTRICTIONS
 OF SPRUCE MEADOWS**

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF SPRUCE MEADOWS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SPRUCE MEADOWS ("Declaration") is made and entered into by Spruce Meadows Development, Ltd., a Colorado corporation ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the real property situated in the City and County of Broomfield, State of Colorado, which is described on Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, Declarant desires to subject and place upon the property described on Exhibit A certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein; and

WHEREAS, a common interest community may be created pursuant to CCIOA (as hereinafter defined) only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every county in which any portion of the common interest community is located and must be indexed in the grantee's index in the name of the common interest community and in the name of the association, and in the grantor's index in the name of each person executing the declaration. No common interest community is created until the plat or map for the common interest community is recorded.

NOW, THEREFORE, Declarant hereby declares that a plat which includes the property described on the attached Exhibit A has been recorded and that all of the real property described on that attached Exhibit A shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein.

ARTICLE 1. DEFINITIONS

Section 1.1. Agencies.

"Agencies" mean the Government National Mortgage association (GNMA), the Federal National Mortgage association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

Section 1.2. Allocated Interest.

"Allocated Interest" means the share Assessment and votes in the Association allocated to each Lot. The Allocated Interest for each Lot shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots within the Community from time to time.



The Allocated Interest for each Lot is subject to decrease with the annexation of additional property to this Community as provided in the Declaration.

Section 1.3. *Annexable Area.*

"Annexable Area" means the property described on Exhibit E attached hereto and incorporated herein by this reference plus, under CCIOA, such additional real estate from such locations as the Declarant may elect in its sole discretion in an amount not exceeding the maximum permitted by CCIOA.

Section 1.4. *Association.*

"Association" means Spruce Meadows Homeowners Association, Inc., a community association as provided in CCIOA.

Section 1.5. *Board of Directors or Board.*

"Board of Directors" or "Board" means the body, regardless of name, designated in this Declaration and the Bylaws of the Association to act on behalf of the Association.

Section 1.6. *Builder.*

"Builder" means any Member other than the Declarant who acquires (or has acquired prior to annexation to this Declaration) one or more Lots for the purpose of constructing one or more residential structures thereon, and who is designated as a Builder by Declarant in its sole discretion from time to time (including the right to withdraw such designation), with such designation to be made by a written instrument duly recorded in the office of the Clerk and Recorder of the City and County of Broomfield, Colorado.

Section 1.7. *CCIOA.*

"CCIOA" means the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101, et seq., as amended.

Section 1.8. *Common Area.*

"Common Area" means any property owned or leased by the Association, other than a Lot, which exists for the common use of more than one of the Owners, and also includes any easement of which the Association is a beneficiary. The Common Area at the time of recordation of this Declaration is described on Exhibit B attached hereto and incorporated herein by this reference.

Section 1.9. *Community.*

"Community" means real estate described on Exhibit A to this Declaration, as supplemented and amended from time to time, and with respect to which a Person, by virtue of such Person's ownership of a Lot, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate described in this Declaration. The name of the Community is Spruce Meadows. The Community is a planned community under CCIOA.

Section 1.10. Declarant.

"Declarant" means Spruce Meadows Development, Ltd., a Colorado corporation and any other Person(s) acting in concert, to whom the Declarant, by recorded document, expressly assigns one or more of the Declarant's rights under this Declaration (which shall be the extent of the Declarant's rights to which such assignee succeeds).

Section 1.11. Declaration.

"Declaration" means this Declaration of Covenants, Conditions and Restrictions of Spruce Meadows and any other recorded instruments, however denominated, that create this Community, including any supplements and amendments to those instruments and also including, but not limited to, plats and maps.

Section 1.12. Design Review Committee.

"Design Review Committee" means the committee appointed by the Declarant or by the Association to review and approve or disapprove plans for Improvements, as more fully provided in this Declaration.

Section 1.13. Development Rights.

"Development Rights" means the following rights or combination of rights hereby reserved by the Declarant, as provided in this Declaration:

- 1.13.1. add real estate to this Community;
- 1.13.2. create Lots or Common Area;
- 1.13.3. subdivide or replat Lots; or
- 1.13.4. withdraw real estate from this Community.

The Declarant may exercise its Development Rights in all or any portion of the Community, and no assurances are made as to the boundaries or order of exercise of any Development Rights. The Declarant's right to exercise Development Rights shall terminate automatically when the Special Declarant Rights terminate, as provided in Section 1.25 of this Declaration.

Section 1.14. Equestrian Lots.

"Equestrian Lots" means those lots on which horses are permitted to be kept as provided in Section 10.5 hereof and as listed on Exhibit C attached hereto and incorporated herein by this reference. However, the designations on the attached Exhibit C, including the lot numbers and the number of horses allowed, constitute the Declarant's present plans for some of the lots which are in, or are anticipated to be annexed into, the Community, but the Declarant may at any time(s), from time to time, without the consent or approval of any other Owner, any Builder any Security Interest Holder, the Association, or any other Person, add, remove or otherwise change the designation of any lot as an Equestrian Lot and/or the number of horses allowed on such lot, and/or in any other manner, by modifying, supplementing, or otherwise revising Exhibit C. All "Equestrian Lots" which have been subjected to this Declaration are "Lots" (as defined in this Declaration).



Section 1.15. *Improvements.*

"Improvements" means all exterior improvements, structures, and any appurtenances thereto or components thereof of every type or kind, and all landscaping features. The foregoing include, without limitation, buildings, outbuildings, barns, detached garages, leach fields, septic systems, swimming pools, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, basketball hoops, poles, signs, piping, filters, exterior tanks, fountains, water quality structures, and exterior air conditioning, cooling, heating and water softening equipment.

Section 1.16. *Initially Unimproved Lot.*

"Initially Unimproved Lot" means each of those Lots on which a certificate of occupancy has not been issued on a dwelling unit on such Lot.

Section 1.17. *Lot.*

"Lot" means each platted lot shown upon any recorded subdivision map of the real property described on the attached Exhibit A, as the same may be re-subdivided or replatted from time to time (subject to the restrictions contained in this Declaration), and any other real property as may hereafter be brought within the jurisdiction of the Association, with the exception of the Common Area and any publicly dedicated property. Upon subjection to this Declaration, each Equestrian Lot is a Lot. Each Lot shall constitute a "unit" under CCIOA and it shall not be necessary to use the term "unit" as a part of a legally sufficient description of a Lot.

Section 1.18. *Lots That May Be Included.*

"Lots that May Be Included" means one hundred (100) Lots, which shall be the maximum number of Lots that may be subject to this Declaration, including the Lots within the property described on the attached Exhibit A and those Lots which may be added if all of the Annexable Area is annexed to this Declaration. However, the aforesaid number of Lots that May Be Included is not a representation or a guarantee as to the actual number Lots that will ultimately be included in or constructed as part of the Community.

Section 1.19. *Member.*

"Member" means all Owners of a Lot collectively or, following termination of the Community, of all former Owners entitled to distributions of proceeds under CCIOA or their heirs, personal representatives, successors or assigns. The Association shall have one class of membership. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot. Each Lot shall have one membership and there is only one (1) Member per Lot, even if the Lot is owned by multiple Owners.

Section 1.20. *Owner.*

"Owner" means each fee simple title holder of a Lot, including without limitation, the Declarant, Builder, or other Person who owns a Lot, but does not include a Person having an interest in a Lot solely as security for an obligation. There may be more than one Owner of a Lot.

Section 1.21. *Person.*

"Person" means a natural person, a corporation, a partnership, an association, a trust, a limited liability company, a joint venture, or any other entity recognized under the laws of the State of Colorado or any combination thereof.

Section 1.22. *Security Interest.*

"Security Interest" means an interest in one or more Lots, or personal property, created by contract or conveyance which secures payment or performance of any obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of leases or rents intended as security, pledge of an ownership interest in the Association, and any other consensual lien or title retention contract intended as security for an obligation.

Section 1.23. *Security Interest Holder.*

"Security Interest Holder" means any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Security Interest, or any successor to the interest of any such Person under such Security Interest.

Section 1.24. *75% Control Period.*

"75% Control Period" means a length of time expiring ten (10) years after initial recording of this Declaration in the City and County of Broomfield. However, the 75% Control Period shall terminate earlier upon the first to occur of the following events, if any of the following occurs within the time period that is specified in the first sentence of this Section: (a) sixty (60) days after conveyance of seventy-five percent (75%) of the Lots to Owners other than a Declarant or Builder; (b) two (2) years after the last conveyance of a Lot by the Declarant or a Builder in the ordinary course of business; or (c) two (2) years after any right to add new Lots to the Declaration was last exercised.

Section 1.25. *Special Declarant Rights.*

"Special Declarant Rights" means the following rights, which rights are hereby reserved for the benefit of the Declarant, and which rights may be further described in this Declaration: to build and complete Improvements in the Community; to exercise any Development Right; to maintain sales offices, construction offices, management offices, and signs advertising the Community and sale of Lots; to use easements through the Common Area for the purpose of making Improvements within the Community or within real estate which may be added to the Community; to merge or consolidate a Community of the same form of ownership; or to appoint or remove any officer of the Association or any Board of Directors member during any 75% Control Period. All of the Special Declarant Rights may be exercised by the Declarant with respect to any portion of the property now or hereafter within the Community. Declarant may exercise any or all of these Special Declarant Rights at any time and from time to time. Such rights shall terminate automatically at such time as Declarant no longer owns any portion of the property described on the attached Exhibits A and E.

ARTICLE 2. MEMBERSHIP AND VOTING RIGHTS

Section 2.1. Association.

The Association has been formed as a Colorado corporation under the Colorado Revised Nonprofit Corporation Act. The Association shall have the duties, powers and rights set forth in this Declaration and in its Articles of Incorporation and Bylaws. As more specifically set forth hereinafter, the Association shall have a Board of Directors to manage its affairs; subject to Article 3 of this Declaration, the Board of Directors shall be elected by the Members.

Section 2.2. Board of Directors.

The number, term and qualifications of the Board of Directors shall be fixed in the Association's Articles of Incorporation and Bylaws. The Board of Directors may, by resolution, delegate portions of its authority to an executive committee or to other committees, to officers of the Association or to agents and employees of the Association, but such delegation of authority shall not relieve the Board of Directors of the ultimate responsibility for management of the affairs of the Association. Action by or on behalf of the Association may be taken by the Board of Directors or any duly authorized executive committee, officer, agent or employee without a vote of the Members, except as otherwise specifically provided in this Declaration.

Section 2.3. Voting Rights

Each Member shall be entitled, for each Lot owned, to one vote in the Association per matter that is to be voted on. However, the Board of Directors may withhold from any Member, in accordance with this Declaration, the Articles of Incorporation or Bylaws of the Association, the right to cast such vote on any matter(s). No vote allocated to a Lot owned by the Association may be cast. The maximum number of votes which may be cast in connection with any matter shall be equal to the denominator of the Allocated Interests at the time a vote is taken.

ARTICLE 3. ASSOCIATION

Section 3.1. Authority of Board of Directors.

Except as provided in this Declaration, the Articles of Incorporation, or the Bylaws of the Association, the Board of Directors may act in all instances on behalf of the Association.

Section 3.2. Election of Part of the Board of Directors During the 75% Control Period.

Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that May Be Included to Owners other than a Declarant or a Builder, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Owners other than the Declarant, provided that the Declarant reserves the right to appoint a majority of the Board. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that May Be Included to Owners other than Declarant or a Builder, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board of Directors must be elected by Owners other than the Declarant, provided that the Declarant reserves the right to appoint a majority of the Board.

Section 3.3. Authority of Declarant During 75% Control Period.

Except as otherwise provided in this Article, during the 75% Control Period, the Declarant or Persons appointed by the Declarant may appoint all officers and members of the Board of Directors, and may remove all officers and members of the Board of Directors which have been appointed by the Declarant. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the 75% Control Period; but, in that event, the Declarant may require, for the duration of the 75% Control Period, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Section 3.4. Termination of 75% Control Period.

Not later than the termination of the 75% Control Period, the Members shall elect a Board of Directors, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board of Directors shall elect the officers. Such members of the Board of Directors and officers shall take office upon election.

Section 3.5. Delivery of Association Property by Declarant.

After the Members other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, if and to the extent required by CCIOA.

Section 3.6. Budget.

Within ninety (90) days after adoption of any proposed budget for the Community, the Board of Directors shall mail, by ordinary first-class mail, or otherwise deliver a summary of the Association budget to all the Members and shall set a date for a meeting of the Members to consider the budget. Such meeting shall occur within a reasonable time after mailing or delivery of the summary. The Board of Directors shall give notice to the Owners of the meeting as provided in the Bylaws of the Association. The budget proposed by the Board of Directors does not require approval from the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by eighty percent (80%) of the votes in the Association, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Members must be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors.

Section 3.7. Rules and Regulations.

Rules and regulations concerning and governing the Lots, Equestrian Lots, Common Area, and/or this Community, may be adopted, amended or repealed from time to time by the Board of Directors, and the Board of Directors may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such rules and regulations. Without limitation, the rules and regulations may state procedural requirements as well as interpretations and applications of the provisions of this Declaration, including without limitation, blanket requirements, blanket interpretations, and blanket applications. The Board has the authority to adopt or vary one or more rules and regulations that are different for different types of Lots. By way of example, and not by way of limitation, the rules

and regulations may state that "reasonable" as used in Section 10.4 means a specified number of pets and which number may be different for different types of Lots. Any rules and regulations that are adopted shall be in accordance with, and shall not be inconsistent with or contrary to, this Declaration and all provisions hereof.

Section 3.8. Association Books and Records.

The Association shall make available to Owners, prospective purchasers, Security Interest Holders, and insurers or guarantors of any such Security Interest, current copies of this Declaration, and the Articles of Incorporation, Bylaws, rules and regulations, books, records and financial statements of the Association, except that: the Board of Directors may at any time(s) determine that items are confidential and should not be made available; and the Owners or others accessing such documents shall pay all costs associated therewith. "Available" shall mean available for inspection, upon request, during normal weekday business hours or under other reasonable circumstances.

Section 3.9. Management Agreements and Other Contracts.

Any agreement for professional management of the Association's business or other contract providing for the services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) days' prior written notice.

Section 3.10. Cooperation with Other Community Associations and/or Any Districts; Delegation of Authority to a Metropolitan District.

3.10.1. The Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with any other community association(s) and/or any district(s), to share the costs and/or responsibility for any maintenance, repair, reconstruction, or other matters, to perform maintenance, repair or reconstruction for any Person(s) in consideration of payment or reimbursement therefor, to utilize the same contractors, subcontractors, managers, or others who may perform services for the Association and/or any other community association(s) and/or any district(s), or to otherwise cooperate with any other community association(s) and/or any district(s), in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the Board of Directors in its discretion from time to time. The costs and expenses for all such matters, if any, shall be shared or apportioned between the Association and/or any other community association(s) and/or any district(s), as the Board of Directors may determine in its discretion from time to time. Additionally, the Association shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with any other community association(s) and/or any district(s) to collect assessments, other charges, or other amounts which may be due to any other community association(s) and/or any district(s) and to permit any other community association(s) and/or any district(s) to collect assessments, other charges, or other amounts which may be due to the Association; in any such instance, the Association shall provide for remittance to such entity(ies) of any amounts collected by the Association or to the Association of any amounts collected by such entity(ies).



3.10.2. Without limiting the generality of the foregoing, the governing board of a metropolitan district may furnish covenant enforcement and design review services within such metropolitan district if the Board of Directors enters into a contract with a metropolitan district to define the duties and responsibilities of each of the contracting parties, including the covenants that may be enforced by said metropolitan district, and the covenant enforcement services of such metropolitan district do not exceed the enforcement powers granted by this Declaration, the rules and regulations of the Association, or any similar document containing the covenants to be enforced.

Section 3.11. *Merger.*

The Declarant hereby reserves the right to merge the Association with one or more other common interest communities without the approval of any Owner or any other Person. This right shall terminate automatically when the Special Declarant Rights terminate, as provided in Section 1.25 hereof.

ARTICLE 4. ASSESSMENTS

Section 4.1. *Personal Obligation for Assessments.*

Each Owner of a Lot, including Declarant and each Builder, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual assessments or charges, special assessments, and other charges, fines, fees, interest, late charges, and other amounts, all as provided in this Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without set-off or deduction. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Lot. Each amount, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the amount became due. The personal obligation for delinquent amounts (including assessments) shall not pass to such Owner's successors in title unless expressly assumed by them.

Section 4.2. *Purpose of Assessments.*

The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents of the Lots, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or the Articles of Incorporation or Bylaws of the Association, or by law.

Section 4.3. *Amount of Annual Assessment.*

Until the effective date of an Association budget adopted by the Board of Directors and not vetoed by the Owners, as provided above, the amount of the annual assessment against each Lot shall not exceed one hundred and no/100 Dollars (\$100.00) per month, exclusive of any amounts due to any district or any other Person or entity. However, the rate of assessments paid by Initially Unimproved Lots shall be less than that paid by other Lots, as provided in the next Section.

Section 4.4. Rate of Assessment.

4.4.1. Annual and special assessments shall be sufficient to meet the expected needs of the Association and shall be apportioned among the Lots in accordance with their Allocated Interest. Notwithstanding the foregoing, however, the amount of the annual assessments and special assessments against the Initially Unimproved Lots shall be set at a lower rate than that charged against other Lots, because the Initially Unimproved Lots receive and benefit from fewer services funded by the assessments than the other Lots. Colorado Revised Statutes §38-33.3-315(3)(b) states that "Any common expense or portion thereof benefiting fewer than all of the units shall be assessed exclusively against the units benefited." Based on this provision, the Initially Unimproved Lots shall pay assessments at the rate of 40% of any annual assessment or special assessment charged to Lots other than Initially Unimproved Lots.

4.4.2. The annual assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis.

4.4.3. During the 75% Control Period, the Declarant may in its discretion, but shall not be required to, cover certain costs of the Association by payment of any amount(s), which shall be treated as an advance against future amounts, including assessments, due from the Declarant; provided, however, that any such advances which have not been credited against amounts due from the Declarant as of termination of the 75% Control Period shall then be repaid by the Association to the Declarant, without interest, to the extent that the Association has funds in excess of its working capital funds, reserve funds, and operating expenses to date for the calendar year in which the 75% Control Period terminates; and provided further, however, that any of such advances which are not repaid to the Declarant shall continue to constitute advances against future amounts, including assessments, due from the Declarant until conveyance by the Declarant of all of the property described on the attached Exhibits A and E. If the Declarant elects in its discretion to pay any amounts as provided in this subparagraph, Declarant shall not, under any circumstances, be obligated to continue payment or funding of any such amount(s) in the future.

Section 4.5. Date of Commencement of Annual Assessments.

Annual assessments shall commence at such time as the Board of Directors may determine in its discretion. After any annual assessment has been made by the Association, annual assessments shall be based on a budget adopted by the Association. A budget shall be so adopted by the Association no less frequently than annually. The annual assessments shall be due and payable in monthly installments, in advance, on the first day of each month or on such other dates, and with such frequency (which may be other than monthly, but not less frequently than annually), as the Board of Directors determines in its discretion from time to time, provided that the first annual assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last payment due.

Section 4.6. *Special Assessments.*

In addition to the annual assessments authorized in this Article, the Board of Directors may levy, in any fiscal year, with the approval of the votes of sixty-seven percent (67%) of a quorum of the Association votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital Improvement upon any portion of real property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed Improvements located on said real property, or for the funding of any expense or deficit incurred by the Association. Any such special assessment shall be set against each Lot in accordance with the Allocated Interests set forth in this Declaration, except that Initially Unimproved Lots shall pay special assessments at the rate set forth in Section 4.4.1 of this Declaration.

Section 4.7. *Assessments/Charges for Services to Less Than All Lots.*

The Association may, at any time from time to time, provide services to less than all of the Lot(s) in the Community. If such services are not funded by the Association's annual or special assessments, then such services shall be provided, if at all, pursuant to an agreement in writing between the Association and the Owners of the Lots for which such service is to be provided, with such agreement to include a statement and terms for payment of the costs, fees and expenses that are to be paid by such Owners for such services, and which amounts shall include overhead expenses of the Association. Services which may be provided by the Association pursuant to this Section (and which are not to be provided to all of the Lots) may include, without limitation, (a) the construction, care, operation, management, maintenance, upkeep, repair, replacement and renovation of Improvements or property owned by such Owner(s); (b) the provision of any services or functions to or for such Lot(s); (c) the enforcement of the provisions of any document or agreement for, on behalf of, and in the name of the applicable Owners; (d) the payment of taxes or other amounts for Owners with funds provided by such Owners; (e) the procurement of insurance for such Owners.

Section 4.8. *Lien for Assessments.*

4.8.1. The Association has a statutory lien on a Lot for any amount levied against that Lot or the Owner thereof, including for fines imposed against the Lot's Owner. Fees, charges, late charges, attorney fees, fines and interest charged pursuant to this Declaration are enforceable as assessments under this Article. The amount of the lien shall include all those items set forth in this Section from the time such items become due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

4.8.2. Recording of this Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessments is required. However, the Board of Directors or managing agent of the Association may prepare, and record in the county in which the applicable Lot is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a

description of the Lot. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

Section 4.9. *Priority of Association Lien.*

4.9.1. A lien under this Article 4 is prior to all other liens and encumbrances on a Lot except:

4.9.1.1. Liens and encumbrances recorded before the recordation of the Declaration;

4.9.1.2. A Security Interest on the Lot which has priority over all other security interests on the Lot and which was recorded before the date on which the assessment sought to be enforced became delinquent; and

4.9.1.3. Liens for real estate taxes and other governmental assessments or charges against the Lot.

4.9.2. A lien under this Section is also prior to the Security Interests described in the preceding subsection 4.9.1.2 to the extent, if any, provided in CCIOA.

4.9.3. This Section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Association.

4.9.4. The Association's lien on a Lot for assessments and other amounts shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said Association lien.

Section 4.10. *Certificate of Status of Assessments.*

The Association shall furnish to an Owner or such Owner's designee, or to a Security Interest Holder or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within a reasonable time after written request, and is binding on the Association, the Board of Directors, and every Owner. The Association shall have the right to charge a reasonable fee for the issuance of such certificates.

Section 4.11. *Effect of Non-Payment of Assessments; Remedies of the Association.*

Any assessments not paid within ten (10) days after the due date thereof shall bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Board of Directors, and the Board of Directors may assess thereon a monthly late charge in such amount as may be determined by the Board of Directors in its



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discretion from time to time. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot. If a judgment or decree is obtained, including, without limitation, in a foreclosure action, such judgment or decree shall include reasonable attorney's fees to be fixed by the court, together with the costs of the action, and may include interest and late charges, as above provided. No Owner may be exempt from liability for payment of any assessment by waiver of the use or enjoyment of any of the Common Area or by abandonment of the Lot against which the assessments are made, or because of dissatisfaction with the Association or its performance. This Article does not prohibit actions or suits to recover sums for which this Declaration creates a lien, nor does this Article prohibit the Association from taking a deed in lieu of foreclosure.

Section 4.12. *Surplus Funds.*

Any surplus funds of the Association remaining after payment of or provision for expenses of the Association, and any prepayment of or provision for reserves, shall be retained by the Association and need not be paid to the Owners or credited to them.

Section 4.13. *Working Capital Fund.*

The Association shall require the first Owner (other than the Declarant or a Builder) of any Lot who purchases that Lot from the Declarant or a Builder to make a non-refundable contribution to the Association in an amount equal to two (2) months assessments (regardless of whether or not annual assessments have commenced as provided in Section 4.5 hereof). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant or a Builder of each Lot and shall, until use, be maintained for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the sale of his Lot, an Owner shall be entitled to reimbursement at closing (in the form of a credit on the closing settlement statement) from the purchaser of such Lot (but not from the Association) for the portion of the aforesaid contribution to working capital fund which has not been used by the Association at the time of conveyance of the Lot by such Owner.

Section 4.14. *Other Charges.*

The Association may levy and assess charges, costs and fees for matters such as, but not limited to, the following, in such reasonable amounts(s) as the Board of Directors may determine in its discretion at any time from time to time, including reimbursement of charges that are made to the Association by its managing agent or other Person: copying of Association or other documents; return check charges; charges for telefaxes; long distance telephone calls; transfer charges or fees upon transfer of ownership of a Lot; charges for notices and demand letters; and other charges incurred by the Association for or on behalf of any Owner(s). All such charges, costs and fees shall be in addition to the assessments levied by the Association, but shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments.

Section 4.15. Assessments for Misconduct.

If any Association expense is caused by the misconduct of any Owner, his family members, tenants, guests or invitees, as determined by the Board of Directors, the Association may assess that Association expense exclusively against such Owner and his Lot.

ARTICLE 5. DESIGN REVIEW COMMITTEE

Section 5.1. Composition of Design Review Committee.

The Design Review Committee shall consist of three (3) or more persons. Until automatic termination of the Special Declarant Rights as provided in Section 1.25 of this Declaration (Special Declarant Rights), the Declarant has the right to appoint the Design Review Committee; subsequent to such date, the Design Review Committee shall be appointed by the Board of Directors. The power to "appoint" as provided herein, shall include without limitation the power to: constitute the initial membership of the Design Review Committee; appoint member(s) to the Design Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Design Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the appointor. The members of the Design Review Committee shall not, by virtue of their membership on the Design Review Committee, be deemed to be "officers" of the Association and thus, as a result of membership on the Design Review Committee, shall not have any of the rights or duties attributable to officers of the Association.

Section 5.2. Review by Design Review Committee; Requirement for Approval by Governmental Entities.

5.2.1. Subject to Sections 5.9 and 5.12 of this Declaration, no Improvements shall be constructed, erected, placed, planted, applied or installed upon any Lot unless plans and specifications therefor (said plans and specifications to show exterior design, height, materials, color, and location of the Improvements, and type of landscaping, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Design Review Committee), shall have been first submitted to and approved in writing by the Design Review Committee. The Design Review Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures, and that such Improvements are consistent with the Design Guidelines referenced in Section 5.4 of this Declaration. In its review of such plans, specifications and other materials and information, the Design Review Committee may require that the applicant(s) reimburse the Design Review Committee for the actual expenses incurred by the Design Review Committee in the review and approval process. Such amounts, if any, shall be levied in addition to the assessment against the Lot for which the request for Design Review Committee approval was made, but shall be subject to the Association's lien for assessments and subject to all other rights of the Association for the collection of such assessments, as more fully provided in this Declaration.

5.2.2. In addition to the foregoing review and approvals, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction thereover, and the issuance of all required permits, licenses and approvals by all such entities. Without limiting the generality of the preceding sentence, issuance of building permit(s) by the City and County of Broomfield, Colorado, if required, shall be a pre-condition to commencement of any construction of, alteration of, addition to, or change in, any Improvement.

Section 5.3. *Procedures.*

The Design Review Committee shall decide each request for approval within forty-five (45) days after the complete submission of all plans, specifications and other materials and information which the Design Review Committee may require in conjunction therewith. If the Design Review Committee fails to decide any request within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect thereto, then approval shall be deemed to have been denied.

Section 5.4. *Design Guidelines.*

The Design Review Committee, with the advice of the Board of Directors, may, at any time from time to time, enact, issue, promulgate, modify, amend, repeal, re-enact, and enforce, a Design Guidelines Manual for the Community, or other design or architectural guidelines, to interpret and implement the provisions of this Article and the Declaration ("Design Guidelines"). Without limiting the generality of the foregoing, such provisions may contain guidelines to clarify the types of designs and materials that may be considered in design approval, may state requirements for submissions in order to obtain review by the Design Review Committee, may state procedural requirements, and/or may specify acceptable Improvement(s) that may be installed without the prior approval of the Design Review Committee. The Design Review Committee shall have the authority to adopt one or more Design Guidelines that are different for different types of structures and/or Lots in the Community. Any Design Guidelines so adopted by the Design Review Committee shall be consistent, and not in conflict, with this Article or the Declaration.

Section 5.5. *Vote and Appeal.*

A majority vote of the Design Review Committee is required to approve a request for approval pursuant to this Article, unless the Design Review Committee has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Design Review Committee decides a request for architectural approval which is adverse to the applicant, then the applicant shall have the right to an appeal of such decision to the full Design Review Committee, upon a written request therefor submitted to the Design Review Committee within thirty (30) days after such decision by the Design Review Committee's representative.

Section 5.6. *Prosecution of Work After Approval.*

After approval of a request for architectural approval, the work to complete the same shall be accomplished as promptly and diligently as possible and in complete conformity with the



approval. Either the failure to complete the proposed Improvement within one (1) year after the date of approval of the application therefor, except as to Builders (who shall not be subject to such 1-year limitation), or failure to complete the Improvement in accordance with the description and materials furnished to the Design Review Committee and the conditions imposed with such approval, shall constitute a violation of this Article.

Section 5.7. *Inspection of Work.*

The Design Review Committee or its duly authorized representative shall have the right to inspect any Improvement prior to, during or after completion of the same, in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with this Article and any approval therefor granted by the Design Review Committee. However, unless the Design Review Committee expressly states, in a written document, that an Improvement is being completed or has been completed in conformance with the approval therefor, no such conformance shall be implied from inspection of the Improvement either during the work or after completion thereof.

Section 5.8. *Records.*

The Design Review Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, for such period(s) as may be determined by the Board of Directors from time to time and such records shall be available to Members for inspection at reasonable hours of the business day.

Section 5.9. *Variance.*

The Design Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or Article 10 hereof, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or Improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

Section 5.10. *Waivers; No Precedent.*

The approval or consent of the Design Review Committee, or any representative thereof, to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Design Review Committee or any representative thereof as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter.

Section 5.11. *Liability.*

The Design Review Committee, and any members thereof, shall not be liable in equity or damages to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within their jurisdiction hereunder. In reviewing any matter, the Design Review Committee shall not be responsible for the safety, whether structural or otherwise of the Improvements submitted for

review, nor the conformance with applicable building codes or other governmental laws or regulations, and any approval of an Improvement by the Design Review Committee shall not be deemed an approval of any such matters. No Member or other Person shall be a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by the Design Review Committee.

Section 5.12. Exemption for Declarant and Builders.

5.12.1. Notwithstanding anything herein to the contrary, until automatic termination of the Special Declarant Rights as provided in Section 1.25 of this Declaration (Special Declarant Rights), the Declarant shall be exempt from the provisions of this Article except for the requirements to obtain approval from all governmental entities with jurisdiction thereover (as provided in Section 5.2.2 hereof).

5.12.2. Notwithstanding anything to the contrary contained in this Declaration, as long as a Builder has received design approval from the Declarant, such Builder shall be exempt from the provisions of this Article except for the requirements to obtain approval from all governmental entities with jurisdiction thereover (as provided in Section 5.2.2 hereof). The exemption contained in this subsection shall expire upon the termination of the Special Declarant Rights as provided in Section 1.25 hereof.

ARTICLE 6. INSURANCE

Section 6.1. Insurance.

The Association shall maintain insurance in connection with the Common Area and with respect to certain areas (for example, equestrian trails, drainage easements and detention ponds) which are mentioned on plat(s), subdivision improvements agreement(s) or annexation document(s) of all or any portion of the Community. The Association shall maintain insurance as required by applicable law or applicable regulation, including CCIOA, which insurance shall include, without limitation, property insurance, commercial general liability insurance, and fidelity coverage or fidelity bonds. In addition, the Association may maintain insurance on such other property, and/or against such other risks, as the Board of Directors may elect in its discretion from time to time, including, but not limited to, personal liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association.

Section 6.2. General Provisions of Insurance Policies.

All policies of insurance carried by the Association shall comply with this Section. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies shall contain a standard non-contributory Security Interest Holder's clause in favor of each Security Interest Holder and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until thirty (30) days prior written notice thereof is given to the insured and each Security Interest Holder, insurer or guarantor of a Security Interest. The Association shall furnish a certified



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copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including Security Interest Holders, upon request. All policies of insurance carried by the Association shall also contain waivers of subrogation against any Owner or member of such Owner's household. Further, all policies of insurance carried by the Association shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association.

Section 6.3. *Deductibles.*

The Association may adopt and establish written non-discriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. Any loss, or any portion thereof, which falls within the deductible portion of a policy that is carried by the Association may, as determined by the Board of Directors, be borne by the Person who is responsible for the repair and maintenance of the property which is damaged or destroyed, be apportioned among the Persons sharing in a joint duty of repair and maintenance, and/or be partly or wholly borne by the Association. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of one or more Owners. Upon said determination by the Association, any such loss or portion thereof may be assessed to the Owner(s) in question in such amount(s) as the Board of Directors deems appropriate, and the Association may collect such amount(s) from said Owner(s) in the same manner as any assessment.

Section 6.4. *Payment of Insurance Proceeds.*

Any loss covered by an insurance policy described in Section 6.1 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Security Interest Holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Owners and Security Interest Holders as their interests may appear. Subject to the provisions of Section 7.1 of this Declaration, the proceeds must be disbursed first for the repair or restoration of the damaged property; and the Association, Owners and Security Interest Holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored and any budget or reserve deficit funded, or unless the Community is terminated.

Section 6.5. *Association Insurance as Primary Coverage.*

If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of an Owner, and the Association may collect the amount from said Owner in the same manner as any assessment. Any such Owner's policy shall also contain waivers of subrogation.

Section 6.6. Acceptable Insurance Companies.

Each insurance policy purchased by the Association must be written by an insurance carrier which is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where (a) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee, or (b) under the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Owner from collecting insurance proceeds.

Section 6.7. Insurance to be Maintained by Owners.

An insurance policy issued to the Association does not eliminate the need for Owners to obtain insurance for their own benefit. Insurance coverage on each Owner's Lot and the Improvements thereon, as well as on all the furnishings and personal property belonging to an Owner, and public liability insurance coverage on each Lot, shall be the responsibility of the Owner of such Lot. Owners shall also be responsible for obtaining any policies of title insurance required in connection with any sale of a Lot other than the purchase by the initial Owner(s) from the Declarant.

ARTICLE 7. DAMAGE OR DESTRUCTION

Section 7.1. Damage or Destruction.

7.1.1. Any portion of the Community for which casualty insurance is required to be carried by the Association under this Declaration which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

7.1.1.1. The Community is terminated;

7.1.1.2. Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;

7.1.1.3. Sixty-seven percent (67%) of the Members, including every Member whose Lot will not be rebuilt, vote not to rebuild; or

7.1.1.4. Prior to conveyance of any Lot to a Person other than the Declarant, a Security Interest Holder rightfully demands all or a substantial part of the insurance proceeds;

7.1.2. The cost of repair or replacement that is covered by insurance carried by the Association, but which is in excess of insurance proceeds and reserves, is a Association expense. If the entire Community is not repaired or replaced, the insurance proceeds attributable thereto must be used to restore the damaged area to a condition compatible with the remainder of the Community and, except to the extent that other Persons will be distributees, the remainder of the proceeds must be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the assessment liability of all the Lots. If the Members vote not to rebuild any Lot, that Lot's Allocated

Interests are automatically reallocated upon the vote as if the Lot had been condemned as provided in Section 13.12 hereof, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting such reallocations.

Section 7.2. Lots.

Except as otherwise provided in Section 7.1 of this Declaration, any damage to or destruction of any structure located on a Lot shall be promptly repaired and reconstructed by the Owner(s) thereof. "Repaired and reconstructed," as used in this Section, shall mean restoring the structure to substantially the same condition in which it existed immediately prior to such damage or destruction, including having the same boundaries as before. However, if a structure located on a Lot shall be destroyed or so damaged that the structure is no longer habitable or useable for the purpose for which it was constructed, then the Owner of such Lot shall, within a reasonable time not to exceed one hundred twenty (120) days after the event resulting in such damage or destruction, either commence and diligently pursue repair or reconstruction of the structure or demolish the same. Demolition of a structure shall include removal of any foundation slab, basement walls and floors, regrading of the Lot to a level condition, and the installation of such landscaping as may be required by the Design Review Committee pursuant to a plan submitted to said Design Review Committee by the Owner of said Lot. If the Owner of a Lot does not either commence repair, reconstruction or demolition activities (if demolition is a permitted option) within a reasonable time, as provided above, and diligently pursue the same in conformance with the plans approved by the Design Review Committee, then the Association may, in its reasonable discretion, after providing the notice required in Section 8.3 hereof, enter upon the Lot for the purpose of completing such repair and reconstruction or demolishing the structure and then landscape the Lot in conformance with approved plans. The cost related to such repair and reconstruction or demolition and landscaping shall be the personal obligation of the Owner of the Lot on which such work is performed and shall be subject to all the terms and provisions applicable to assessments as provided in Article 4 hereof, including without limitation, interest, late charges, attorneys' fees and lien rights.

ARTICLE 8. EXTERIOR MAINTENANCE

Section 8.1. General.

8.1.1. Maintenance, repair or replacement of the Common Area and all Improvements located thereon, and of any drainage structure or facilities, or other public Improvements required by the local governmental entity as a condition of development of the Community or any part thereof, shall be the responsibility of the Association unless such Improvements have been dedicated to and accepted by the local governmental entity for the purpose of maintenance, repair or replacement or unless such maintenance, repair or replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity. Without limiting the generality of the foregoing, the Association shall maintain and repair the Common Area described or shown on the attached Exhibit B, and the Improvements thereon, as well as the "tree lawn" area on or adjacent to Lots. Further, the Association may provide such other maintenance, repair and replacement as the Board of Directors deems appropriate from time to time, including without limitation publicly-dedicated property and Improvements located thereon, and the "borrow ditch" that may be partly in dedicated rights-of-way and partly on Lots. The

costs to be expended for such maintenance and repair shall, subject to Section 8.5, be collected by the Association as assessments as provided in Article 4 hereof.

8.1.2. The plat of Spruce Meadows Filing No. 1 and other documents, including replats, may provide for certain maintenance and/or inspections to be done by or for the Association, including without limitation inspection of onsite wastewater systems as provided in Section 8.2 below, and maintenance of an equestrian area and trails. The costs, expenses and fees expended by the Association for the same shall be collected by the Association as assessments as provided in Article 4 hereof.

8.1.3. Except as provided in subsections 8.1.1 and 8.1.2 above, the maintenance, repair and replacement of each Lot, and the Improvements thereon (including without limitation any onsite wastewater system), shall be the responsibility of the Owner of such Lot. Such maintenance, repair and replacement shall be done in compliance with this Declaration, the Design Guidelines, the rules and regulations of the Association, and all statues, ordinances, laws and other requirements of all governmental agencies and entities with jurisdiction thereover.

Section 8.2. *Inspection of Onsite Wastewater Systems.*

As provided in a certain document entitled "Onsite Wastewater Systems Inspection Program in Conformance with Broomfield Health & Human Services, Public Wealth & Environment Requirements," the Association anticipates hiring a third party to conduct annual inspections of onsite wastewater systems in the Community. The costs, expenses and fees expended by the Association for such inspections, and reports therefrom, shall be collected by the Association as assessments as provided in Article 4 hereof. The Association will communicate the results of its inspection of the onsite wastewater system on each Lot to the Owner thereof; the Owner is responsible for scheduling and costs of all maintenance, repairs and pumping that may be recommended by such inspection, and for notification to Broomfield Health & Human Services or other applicable governmental entity or agency. Note that it is the responsibility of each Owner to keep their onsite wastewater system in good working order at all times. The Owners shall hold the Association harmless from and against any and all actions or omissions by the inspection company that conducts such inspections.

Section 8.3. *Association's Right to Repair, Maintain and Reconstruct.*

In the event any Owner shall fail to perform his maintenance, repair and/or reconstruction obligations in a manner satisfactory to the Board of Directors, the Association may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Board, enter upon said Lot subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or reconstruction. Notwithstanding the foregoing, no notice shall be required in emergency situations. The cost of such maintenance, repair or reconstruction shall be the personal obligation of the Owner of the Lot on which such work is performed, and shall be subject to all of the terms and provisions applicable to assessments as provided in Article 4 hereof including, without limitation, interest, late charges and lien rights.

Section 8.4. Maintenance of and Non-Interference with Grade and Drainage; Irrigation Recommendations Around Foundations and Slabs.

8.4.1. Each Owner shall maintain the grading on his Lot (including grading around the building foundation), and the Association shall maintain the grading on the Common Area, at the slope and pitch fixed by the final grading thereof, including landscaping and maintenance of the slopes, so as to maintain the established drainage. Each Owner and the Association agree, for themselves and their successors and assigns, that they will not in any way interfere with the established drainage pattern over any real property which they have a duty to maintain, from adjoining or other real property. In the event that it is necessary or desirable to change the established drainage over any Lot or the Common Area, then the party responsible for the maintenance of such real property shall submit a plan to the Design Review Committee for its review and approval in accordance with Article 5 of this Declaration, and any such change shall also be made in accordance with all laws, regulations and resolutions of applicable governmental entities.

8.4.2. The Owner of a Lot should not plant flower beds (especially annuals), vegetable gardens and other landscaping which requires regular watering, within five (5) feet of the foundation of the structure, or within five (5) feet of any slab, on the Lot. If evergreen shrubbery is located within five (5) feet of any foundation wall or slab, then the Owner of the Lot should water such shrubbery by "controlled hand-watering," and should avoid excessive watering. Further, piping and heads for sprinkler systems should not be installed within five (5) feet of foundation walls and slabs.

8.4.3. For purposes of this Section, "established drainage" is defined as the drainage which exists at the time final grading by the Declarant is completed.

Section 8.5. Acts or Omissions.

Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of the Common Area, a Lot, or any Improvements located thereon, is caused by the act or omission of any Owner, or by the act or omission of any member of such Owner's family or by a tenant, guest or invitee of such Owner, the cost of such repair, maintenance, reconstruction or expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such Persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to the assessment to which such Owner's Lot is subject and shall be subject to all of the terms and provisions of Article 4 of this Declaration. A determination of the act or omission of any Owner, or any member of an Owner's family or a tenant, guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Association at a hearing after notice to the Owner.

ARTICLE 9. EASEMENTS

Section 9.1. Easements.

The Declarant and the Association shall be beneficiaries of all easements, with a right to use such easements, that are shown on the plat(s) and replat(s) of the Community or any portion

thereof. In addition to any other easements which may be granted or reserved elsewhere in this Declaration, the following Sections describe easements to which the Community is or may be subject.

Section 9.2. Maintenance, Repair and Replacement, Right of Access and Easement.

Each Owner hereby grants to the Association, and to their agents, employees and contractors, a right and easement on, over, across and through such Owner's Lot for maintenance, repair and replacement as provided in this Declaration and for and incidental to enforcement of any term or provision of this Declaration. If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the Common Area, any other property, or any Lot, the Owner responsible for the damage or expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair. Further, each Lot shall be subject to an easement in favor of the Association (including its agents, employees and contractors) for performing maintenance, repair and/or reconstruction as provided in Article 8 during reasonable hours after reasonable notice to the Owners or occupants of any affected Lot, except that in emergency situations entry upon a Lot may be made at any time provided that the Owner or occupants of each affected Lot shall be warned of impending emergency entry as early as is reasonably possible. The interior of any residence shall not be subject to the easement granted in this Section.

Section 9.3. Utilities and Drainage Easement.

9.3.1. Declarant hereby reserves a blanket easement upon, across, over and under the Common Area for utilities and the installation, use, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity, computer cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement it shall be expressly permissible to erect, use, and maintain the necessary facilities, equipment and appurtenances on the Common Area and to affix, use, repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part of all of the Common Area without conflicting with the terms hereof; provided, however, that such right and authority in the Declarant shall automatically cease at such time as the Special Declaration Rights terminate as provided in Section 1.23 of this Declaration (Special Declarant Rights), at which time said reserved right shall vest in the Association. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on the Common Area.

9.3.2. In addition to the easements described in Section 9.3.1 above and those easements shown on the plat(s) or replat(s) of the Community or any portion thereof, Declarant hereby reserves, to itself and to the Association, easements for drainage and drainage facilities across the five (5) rear and five (5) side feet of each Lot. No Improvements (except fencing or landscaping with the prior written approval of the Design Review Committee) shall be placed or permitted to remain on any Lot nor shall

any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water through channels or swales within such rear and side yard drainage easements. Declarant reserves to itself and to the Association the right to enter in and upon each five foot rear and side yard drainage easements, at any time, to construct, repair, replace or change drainage structures or to perform such grading, drainage or corrective work as Declarant or the Association may deem necessary or desirable in their sole discretion from time to time; provided, however, that such right and authority in the Declarant shall automatically cease at such time as the Special Declarant Rights terminate as provided in Section 1.25 of this Declaration (Special Declarant Rights), at which time said reserved right shall vest solely in the Association.

Section 9.4. *Easement for Encroachments.*

To the extent that any Improvement on a Lot or Common Area encroaches on any other Lot or Common Area, a valid easement for the encroachment exists.

Section 9.5. *Easement for Unannexed Property.*

The Declarant hereby reserves, for the use and benefit of the Annexable Area, a non-exclusive, perpetual easement and right-of-way for pedestrian and vehicular access, ingress and egress, on, over and across the roads, driveways, streets, sidewalks, accessways and similar Common Area, now or hereafter constructed, erected, installed or located in or on the Community, and on, over, across and under the Common Area for utilities and the construction, location, erection, installation, storage, maintenance, repair, renovation, replacement and use of any utilities Improvements that may now or hereafter serve the Annexable Area or any portion thereof (herein the "Annexable Area Easement"). By virtue of this Annexable Area Easement, the Declarant generally intends to provide for pedestrian and vehicular access and for utilities services, to those portion(s) of the Annexable Area which have not been included, from time to time, in the Community pursuant to Section 13.5 hereof. Hence, the Annexable Area Easement shall be in effect for each portion of the Annexable Area, from and after recording of this Declaration, but shall cease to be effective as to each portion of the Annexable Area at such time as both of the following have occurred with respect to such portion of the Annexable Area: annexation of such portion of the Annexable Area to this Declaration pursuant to the aforesaid Section; and expiration of the Declarant's right to withdraw such portion of the Annexable Area from this Declaration.

ARTICLE 10. RESTRICTIONS

Section 10.1. *General Plan.*

It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Lots.

Section 10.2. *Restrictions Imposed.*

This Community is subject to the recorded easements, licenses and other matters listed on Exhibit D, attached hereto and incorporated herein by this reference. In addition, the Declarant declares that all of the Lots shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions,

limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

Section 10.3. Residential Use.

Subject to Sections 10.5 and 13.8 of this Declaration, Lots shall be used for residential use only, including uses which are customarily incident thereto, and shall not be used at any time for business, commercial or professional purposes. Notwithstanding the foregoing, however, Owners may conduct business activities within their homes provided that the following conditions are satisfied:

10.3.1. The business conducted is clearly secondary to the residential use of the home and is conducted entirely within the home;

10.3.2. The existence or operation of the business is not detectable from outside of the home by sight, sound, smell or otherwise, or by the existence of signs indicating that a business is being conducted;

10.3.3. The business does not result in an undue volume of traffic or parking within the Community, which determination may be made by the Board of Directors in its sole discretion from time to time;

10.3.4. The business conforms to all zoning requirements and is lawful in nature; and

10.3.5. The business conforms to any rules and regulations that may be imposed by the Board of Directors from time to time on a uniform basis to protect the peace, tranquility and quality of the Community.

Section 10.4. Household Pets.

Except as provided in Section 10.5 hereof, no animals, livestock, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Lots; provided, however, that the Owners of each Lot may keep a reasonable number of dogs, cats, or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to any resident of the Lots. The Association shall have, and is hereby given, the right and authority to: set a size or poundage limit on pets; regulate the type(s) of pets that are permitted to be kept; determine in its sole discretion that any dog(s), cat(s) or other household pet(s) are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance; determine in its sole discretion that an Owner, his tenant(s) or family member(s), are in violation of the leash laws of the applicable jurisdiction or other applicable governmental laws, ordinances, or other provisions related to household pets; or determine in its sole discretion that an Owner, tenant or family member is otherwise in violation of the provisions of this Section. In any of the foregoing instances, the Association may take such action or actions as it deems appropriate to correct the same. An Owner's or tenant's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the

Association's rights with respect to the collection and enforcement of assessments as provided in Article 4 hereof.

Section 10.5. *Equestrians and Barns.*

Barns and horses may be kept only on those Lots specifically deemed to be Equestrian Lots as defined in the Design Guidelines. Barns and horses, except stallions, may be kept on an Equestrian Lot, but only in accordance with the following and subject to the rules and regulations of the Board:

10.5.1. Subject to Section 10.5.4 hereof, no more than two (2) horses may be kept on each Equestrian Lot.

10.5.2. Subject to Section 10.5.4 hereof, a barn or other outbuilding, of design and materials matching or compatible with the residence on the Equestrian Lot on which such barn is to be constructed and meeting all other Design Guidelines, shall be permitted on an Equestrian Lot. A barn, outbuilding or other accessory building shall not exceed a maximum footprint size of 75% of the footprint of the residence on the lot and must conform with other design restrictions as specified in the Design Guidelines. A barn shall only be constructed in accordance with the prior approval, and requirements, of the Design Review Committee.

10.5.3. Subject to Section 10.5.4 hereof, if one or more horses are kept on an Equestrian Lot, adequate containment of the horses must be addressed with perimeter fencing and/or an outdoor corral. Corrals and paddocks shall be located adjacent to the barn. Any horse containment measures must meet Design Guideline requirements in size, style and materials.

10.5.4. If an Owner owns two (2) or more adjacent Equestrian Lots and provides a recordable affidavit to the Board verifying that only one residence will be constructed on all of such Equestrian Lots, that such Equestrian Lots will be treated as one, and the Owner waives his rights to sell any of such Equestrian Lots separately, then the Board may approve in writing that a proportionate increased number of horses can be kept on such Equestrian Lots, and that one consolidated barn and one consolidated paddock area, may be constructed on any one or more of such Equestrian Lots.

10.5.5. Each plan for a barn and/or paddock shall include measures to control the runoff and erosion from the barn and paddock areas. Each Owner shall be responsible for maintaining all erosion and runoff control measures from his Equestrian Lot.

10.5.6. No manure shall be stored in a location or manner such that it is visible or creates a nuisance to adjacent homeowners. Owners of Equestrian Lots must provide to Design Review Committee a plan for storing and removing of horse waste. Each Owner shall remove the manure on his Equestrian Lot, refuse from the barn, paddock, and corrals at least two (2) times per month. An Owner may be required to remove any or all such materials more frequently if the accumulation is creating a nuisance or annoyance, including but not limited to gathering of flies, odors on neighboring properties

or unsightly conditions. Owners must detain all animal waste material on their Equestrian Lot and prevent runoff of such waste to other property.

10.5.7. An Owner of any horses(s) kept within an Equestrian Lot must feed said horse(s) with food procured away from the Equestrian Lot as the lot sizes do not supply adequate amounts of horse feed. If it comes to the attention of the Board that any Owner is grazing horse(s) on the Equestrian Lot or elsewhere in the Community, the Board may issue an order to cease and desist and may take all other actions which it deems appropriate to enforce this provision.

10.5.8. An Owner of any horse(s) kept within an Equestrian Lot must revegetate the natural areas of their lot as provided in the Design Guidelines and in accordance therewith, and with an appropriate native grass species to mitigate the impact of the horse(s) on the lot.

10.5.9. All horse facilities including but not limited to, barns, outbuildings, food and waste storage, fencing, corrals, paddocks, round pens, etc. are subject to review and approval by the Design Review Committee as to location, size, setbacks, design and materials. Approval from the Design Review Committee does not grant approval from any necessary regulatory or governmental authorities.

10.5.10. One horse trailer per Equestrian Lot will be allowed to be stored or parked adjacent to barns in accordance with the Design Guidelines and in the least obtrusive manner possible to neighboring homeowners. Additional landscaping, berming, and other measures may be necessary to screen the horse trailer if it is not garaged or parked inside a barn.

Section 10.6. *Temporary Structures and Other Structures; Unsightly Conditions.*

Except as hereinafter provided, no structure of a temporary character, including, but not limited to, a house trailer, tent, or shack, shall be placed or erected upon any Lot; provided, however, that during the actual construction, alteration, repair or remodeling of a structure or other Improvements, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work. Detached garages, storage sheds, gazebos, greenhouses, barns, and similar buildings shall not be considered to be a "structure of a temporary character" within the meaning of this Section; provided that none of such other structures may be constructed without the prior written consent of the Design Review Committee and the Design Review Committee, among other requirements, may set a limit on the number of such other structures permitted on a Lot. The work of constructing, altering or remodeling any structure or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, unsightly conditions, structures, facilities, equipment or objects shall be permitted only with the prior written approval of the Design Review Committee and only if the same are in conformance with the Design Guidelines.

Section 10.7. *Miscellaneous Improvements.*

10.7.1. No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot other than a name plate of the occupant and a street



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number, and except for a "For Sale," "Open House," or security sign(s) of not more than a total of five (5) square feet, and such other signs, for such duration, as may be approved by the Design Review Committee from time to time. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant and/or any Builder (with the prior written consent of the Declarant) in connection with the sale or rental of the Lots, or otherwise in connection with development of or construction on the Lots, shall be permissible.

10.7.2. No wood piles or storage areas shall be so located on any Lot as to be visible from a street or from the ground level of any other Lot.

10.7.3. No types of refrigerating, cooling or heating apparatus shall be permitted on a roof and no such apparatus shall be permitted elsewhere on a Lot, except when appropriately screened and approved by the Design Review Committee subject to any provisions of the Design Guidelines.

10.7.4. Except as may otherwise be permitted by the Design Review Committee, subject to any provisions of the Design Guidelines, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Lot, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its sales or construction upon the Lots; and provided further, however, that the requirements of this subsection shall not apply to those "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 or regulations adopted thereunder, as amended. As to "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996 or regulations adopted thereunder, as amended, the Association shall be empowered to adopt rules and regulations governing the types of "antenna" (including certain satellite dishes) that are permissible and, to the extent permitted by the Telecommunications Act of 1996 or regulations adopted thereunder, as amended, establishing reasonable, non-discriminatory restrictions or requirements relating to appearance, safety, location and maintenance.

10.7.5. No fences shall be permitted except in conformance with the Design Guidelines and with the prior, written approval of the Design Review Committee and except such fences as may be constructed, installed or located by the Declarant in its development of, or construction of Improvements in, the Community.

10.7.6. No wind generators, hanging articles (including without limitation clotheslines), drying yards, or service yards, shall be constructed, installed, erected or maintained on any Lot.

10.7.7. Dog runs shall be permitted on Lots only with the prior written approval of the Design Review Committee, subject to any provisions of the Design Guidelines.



10.7.8. All driveways to the primary garage on a Lot must be installed, constructed, maintained, repaired and replaced with a hard surface material such as concrete or asphalt.

Section 10.8. *Vehicular Parking, Storage and Repairs.*

10.8.1. Except as hereinafter provided in this subsection, no trailer of any kind, jet ski, boat, or accessories thereto, truck (excluding pickup trucks that are 1 ton or less), self-contained motorized recreational vehicle, or other type of recreational or commercial vehicle or equipment, may be parked or stored on a Lot, unless such parking or storage is entirely within the garage area of any Lot. However, any such vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. The only exception to this restriction is the parking of one horse trailer per Equestrian Lot as specified in Section 10.5.10. This restriction, however, shall not restrict trucks or other commercial vehicles which are necessary for construction or maintenance of any portion of the Community or any Improvements located thereon. No other vehicle may be parked or stored in the Community in such a manner as to be visible from any Lot, except that vehicles (except as provided above and in Section 10.8.2) may be parked in the driveway of a Lot.

10.8.2. Except as otherwise provided in this and the next sentence, no recreation vehicles, or disassembled or partially disassembled vehicles of any type, shall be parked, stored, maintained, or used on any Lot (except within the fully enclosed garage of a Lot). However, recreation vehicles and motor homes may be temporarily parked for purposes of loading or unloading for a maximum of three (3) consecutive days in the driveway of a Lot, not to exceed six (6) days per month. Recreation vehicles shall include, but not be limited to, motor homes, pick-up trucks with camper shells, trailers, motorcycles, motorbikes, snowmobiles, jet skis, all-terrain vehicles, and other apparatus intended for use on land, water, or the air, and the trailers used for their transportation.

10.8.3. Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Community. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or other similar vehicle, which has not been driven under its own propulsion for a period of forty-eight (48) hours or longer, or which does not have an operable propulsion system installed therein, or which is not then currently registered and licensed; provided, however, that otherwise permitted vehicles parked by Owners while on vacation (for a maximum of two (2) weeks) or during a period of illness shall not be deemed to be abandoned.

10.8.4. In the event the Association shall determine that a vehicle is parked or stored on any Lot in violation of subsections 10.8.1, 10.8.2, or 10.8.3, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Association in its discretion

from time to time, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

10.8.5. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Community unless it is done within completely enclosed structure(s) which screen the sight and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing.

Section 10.9. *Nuisances.*

No nuisance shall be permitted in the Community nor any use, activity or practice which is a source of annoyance or embarrassment to, or which offends or disturbs the resident of any Lot or which interferes with the peaceful enjoyment or possession and proper use of any Lot, or any portion thereof, by its residents. As used herein, the term "nuisance" shall not include any activities of Declarant which are reasonably necessary to the development and construction of, and sales activities in, the Community; provided, however, that such activities of the Declarant shall not unreasonably interfere with any Owner's use and enjoyment of his Lot, or with any Owner's ingress and egress to or from his Lot and a public way. No noxious or offensive activity shall be carried on in the Community nor shall anything be done or placed in the Community which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. Further, no improper, offensive or unlawful use shall be permitted in the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community, or any portion thereof, shall be observed.

Section 10.10. *No Hazardous Activities; No Hazardous Materials or Chemicals.*

No activities shall be conducted on any Lot, or within Improvements constructed on any Lot, which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Lot and no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit while attended and in use for cooking purposes or within an interior fireplace, or except such campfires or picnic fires on property which may be designated for such use by the Association. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Lot except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

Section 10.11. *No Annoying Light, Sounds or Odors.*

No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Lot which is unreasonably loud or annoying; and no odor shall be permitted from any Lot which is noxious or offensive to others. Any exterior lighting installed or maintained on a Lot or Improvements(s) shall have the prior written approval of the Design Review Committee, shall be in accordance with the Design Guidelines, and shall either be indirect or of such controlled focus and intensity so as not to disturb the residents of adjacent or nearby property.

Section 10.12. *Restrictions on Trash and Materials.*

No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate except inside the residence or garage on any Lot, nor shall any such items be deposited on a street, unless placed in a suitable container suitably located solely for the purpose of garbage pickup. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

Section 10.13. *Lots to be Maintained.*

Each Lot shall at all times be kept in a clean, sightly and wholesome condition by the Owner thereof. No trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Lot except as necessary during the period of construction or as provided in Section 10.12 of this Declaration.

Section 10.14. *Leases.*

The term "lease," as used herein, shall include any agreement for the leasing or rental of a Lot, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases. Any Owner shall have the right to lease his Lot, or any portion thereof, under the following conditions:

10.14.1. All leases shall be in writing; and

10.14.2. All leases shall provide that the terms of the lease and lessee's occupancy of the leased premises shall be subject in all respects to the provisions of this Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Association; and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease.

Section 10.15. *Landscaping of Lots.*

Every Lot shall be landscaped by the first Owner thereof (other than Declarant or a Builder), with the prior, written approval of the Design Review Committee, within six (6) months after acquisition of such Lot by the first Owner thereof from the Declarant or a Builder, or such longer periods as may be permitted by the Design Review Committee in writing. The landscaping of each Lot shall be maintained by the Owner thereof in a neat, attractive, sightly and well kept condition, which shall include lawns mowed, hedges trimmed, adequate watering, replacement of dead, diseased or unsightly materials, removal of weeds and debris and appropriate pruning of plant materials. If any Owner of a Lot fails or refuses to install or maintain landscaping, as hereinabove provided, then the Association may, at the direction of the Board of Directors, enter upon such Lot and install or maintain landscaping on such Lot and the Owner thereof shall be obligated to pay for the same, in accordance with and subject to the provisions of Section 8.2 hereof.

Section 10.16. *Surface Use Agreement; Restrictions on Mining or Drilling.*

The Community is subject to a certain Surface Use Agreement dated July 29, 2004, between the Declarant and Patina Oil & Gas Corporation, recorded on October 20, 2004 under



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Reception No. 2004015541 in the office of the Clerk and Recorder of the City and County of Broomfield, Colorado, and may be subject to other oil and gas leases or other similar documents that were entered into prior to the date of recording of this Declaration. No property within the Community shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth, except drilling or exploring for oil, gas or other hydrocarbons pursuant to the Surface Use Agreement and such oil and gas leases, or similar documents, in effect on the date that this Declaration is recorded, as the same may be amended and supplemented from time to time.

Section 10.17. *Oil and Gas Well Disclosure.*

Each Owner, by acceptance of a deed to a Lot, acknowledges the existence of oil and gas wells located in the Community and/or the Annexable Area. Such oil and gas wells may be in operation pursuant to leases or similar documents. Such leases and the Surface Use Agreement may permit certain surface activity in the Community which activity may include drill sites, gathering pipelines, production sites and facilities, and access roads, all as further described in the applicable documents. No residential dwelling unit may be constructed within a distance as may be established, from time to time, by applicable governmental entities, of a drilling or production site.

By acceptance of a deed to a Lot, each Owner recognizes the existence of oil and gas leases in the Community and Annexable Area and the surface activity associated with such oil and gas leases, and assumes the risk of owning property near or adjacent to an oil and gas well operation. Such risks include, without limitation: injury or damage to persons and/or property arising out of or resulting from the drilling, operation and maintenance of an oil and gas well; noise associated with an oil and gas well operation; explosion and fire; leakage of oil and/or gas; and vehicles servicing the oil and gas site. The waiver and release set out in Section 13.16 of this Declaration shall apply to this Section.

Section 10.18. *Non-Potable Water*

Certain water that is or may be in the Community (for example, The Farmers Reservoir and Irrigation Company ditch and other ditches) may be non-potable and should not be used as drinking water or for any use which might result in consumption of the same. Each Owner is solely responsible for any adverse consequence or reaction from consumption of any non-potable water by the Owner, a member of the Owner's family, a tenant, guest, or invitee of such Owner, or any animal(s) (such as dogs or horses) for which such Owner is responsible. Further, neither the Declarant nor the Association plan to protect any Person, animal or property from, or to provide any physical barriers or impediments to, any water in the Community. Neither the Declarant nor the Association plan to provide signage warning about the possible dangers of consumption of non-potable water or other matters. The Declarant, Builders, Association, Board of Directors, Design Review Committee, and their officers, directors, members, partners, agents and employees, hereby disclaim any responsibility for the safety of any Persons or property with respect to non-potable water. The waiver and release set out in Section 13.16 of this Declaration shall apply to this Section.

Section 10.19. Sewage Disposal Systems

Each Lot shall have its own sewage disposal system to be installed and maintained by the Owner of such Lot, subject to a leach field inspection program by the Association as provided in Section 8.2 hereof. However, no cesspool, septic tank, or other sewage disposal system shall be installed on any Lot or within the Community without the prior written approval of the City and County of Broomfield and the Design Review Committee. Any sewage disposal systems installed within the Community shall be subject to applicable laws, rules and regulations of all governmental authorities having jurisdiction thereover. The waiver and release set out in Section 13.16 of this Declaration shall apply to this Section.

ARTICLE 11. PROPERTY RIGHTS IN THE COMMON AREA.

Section 11.1. Owners' Easements of Enjoyment.

Subject to this Article, every Owner shall have a non-exclusive right and easement for the purpose of access to their Lots and for use for all other purposes, in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 11.2. Extent of Owners' Easements.

Subject to the other provisions of this Article, the rights and easements of enjoyment created hereby are subject to the following: the Common Area may not be used in any manner which violates the statutes, rules, or regulations of any governmental authority with jurisdiction over the Common Area; and no Owner may place any structure on the Common Area. In addition, such rights and easements are subject to the following rights of the Association:

11.2.1. The right of the Association to borrow money for the purpose of improving the Common Area and to mortgage said property as security for any such loan; provided, however, that the Association may not subject any portion of the Common Area to a Security Interest except in accordance with CCIOA; and

11.2.2. The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure; and

11.2.3. The right of the Association to promulgate and publish standards, guidelines, rules and regulations, with which each Member shall strictly comply; and

11.2.4. The right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of the Association Bylaws or the rules and regulations of the Association; and

11.2.5. The right of the Association to dedicate or transfer all or any part of the Common Area owned by the Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless the same is done in accordance with CCIOA. Notwithstanding the foregoing, the granting of permits, licenses and easements for public utilities, roads or for other purposes reasonably

necessary or useful for the proper maintenance or operation of the Community shall not be deemed a transfer within the meaning of this subsection; and

11.2.6. The right of the Association, through its Board of Directors, to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of real property or Improvements by Owners, other Persons, their family members, guests and invitees, for any purpose(s) the Board of Directors may deem to be useful, beneficial or otherwise appropriate; and

11.2.7. The right of the Association to close or limit the use of the Common Area while maintaining, repairing and making replacements in the Common Area.

Section 11.3. *Use of Common Area by Declarant.*

An easement is hereby reserved by the Declarant on, over, under and through the Common Area as may be reasonably necessary for the purpose of discharging any of Declarant's obligations or exercising any Special Declarant Rights or other rights of the Declarant and no Owner shall engage in any activity which will temporarily or permanently interfere with the Declarant's easement through the Common Area.

Section 11.4. *Delegation of Use.*

Any Owner may delegate his right of enjoyment to the Common Area and facilities to the members of such Owner's family, tenants, or contract purchasers who reside on such Owner's Lot.

Section 11.5. *Payment of Taxes or Insurance by Security Interest Holders.*

Security Interest Holders shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may or have become a lien against the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and any Security Interest Holders making any such payments shall be owed immediate reimbursement therefor from the Association.

Section 11.6. *Conveyance or Encumbrance of Common Area.*

Portions of the Common Area may be conveyed or subjected to a Security Interest by the Association only in accordance with CCIOA and this Declaration.

Section 11.7. *Duty to Accept Property and Facilities Transferred by Declarant.*

The Association shall accept title to any Common Area, including Improvements thereon, as well as personal property, equipment, easements and any property on which the Association has or assumes maintenance responsibilities, transferred to the Association by the Declarant, together with responsibility to perform all duties and functions of the Association which are set forth in this Declaration or otherwise assumed by the Association. As of the date of recording of this Declaration, interests which are planned to be transferred by the Declarant to the Association are planned to consist only of fee simple title to Common Area, and/or easements, to be located in the property described on the attached Exhibit A and/or the Annexable Area .



ARTICLE 12. DISPUTE RESOLUTION

Section 12.1. *Intent of Article; Applicability of Article; and Applicability of Statutes of Limitation.*

12.1.1. Each Party (as defined below) agrees to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Party covenants and agrees to submit all Claims each alleges to have to the procedures set forth in this Article and not to a court of law.

12.1.2. By acceptance of a deed for a Lot, each Owner agrees to abide by the terms of this Article.

12.1.3. No Claim (as defined below) may be initiated after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitation or statute of repose.

Section 12.2. *Definitions Applicable to this Article.*

For purposes of this Article only, the following terms have the meanings set forth in this Section:

12.2.1. "AAA" means the American Arbitration Association.

12.2.2. "Claimant" means any Party having a Claim.

12.2.3. "Claim" means, except as exempted by the terms of this Article, any claim, grievance or dispute between one Party and another, regardless of how the same may have arisen or on what it might be based, including without limitation those arising out of or related to: (a) the interpretation, application or enforcement of any of the Governing Documents or the rights, obligations and duties of any Party under any of the Governing Documents; or (b) the design or construction of improvements; or (c) any statements, representations, promises, warranties, or other communications made by or on behalf of any Party.

12.2.4. "Governing Documents" means this Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, the Design Guidelines, and any rules and regulations adopted by the Board of Directors.

12.2.5. "Inspecting Party" means a Party causing an inspection of the Subject Property to be made.

12.2.6. "Party" means each of the following: Declarant, its officers, directors, partners, members, employees and agents; the Association, its officers, directors and committee members; all persons subject to this Declaration; any Builder, its officers, directors, partners, members, employees and agents; and any Person not otherwise subject to this Declaration who agrees to submit to this Article.

12.2.7. "Respondent" means any Party against whom a Claimant asserts a Claim.

12.2.8. "Subject Property" means the property being inspected pursuant to the inspection right provided in Section 12.7.

12.2.9. "Termination of Mediation" means a period of time expiring thirty (30) days after a mediator has been agreed upon by the Parties (however, a mediator shall be selected no later than 45 days after the Claimant has given notice to the Respondent of the Claim and if the Parties are unable to agree on a mediator, one shall be chosen by the AAA) and the matter has been submitted to mediation (or within such other time as determined by the mediator or agreed to by the Claimant and Respondent) and upon the expiration of which the Claimant and Respondent have not settled the Claim.

Section 12.3. *Approval Required for Association Actions.*

Except as provided in Section 12.6 below, the approval of seventy-five percent (75%) of a quorum (as provided in Section 12.4) of the Association votes cast by Members voting in person or by proxy at a meeting duly called for this purpose, or voting pursuant to written ballot, must be obtained before the Association shall have the power to institute action on any Claim pursuant to this Article, or to make any counterclaim or cross-claim in any lawsuit or other action brought against the Association. Such approval must be obtained in accordance with the requirements of Section 12.4.

Section 12.4. *Notice and Quorum for Association Actions.*

Written notice of any meeting of Members which includes a vote pursuant to Section 12.3 hereof shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. Such written notice, or if the vote is to be by written ballot then such written ballot, shall include the following information:

12.4.1. A statement regarding the nature of the Claim. Such statement shall include, without limitation, the name(s) of the proposed Respondent(s), the basis and reason for the Claim, and any other information necessary to adequately explain the nature of the proposed Claim; and

12.4.2. A good-faith estimate of the costs and fees, including the fees of consultants, expert witnesses and attorneys, reasonably anticipated to be incurred by or for the Association in prosecuting the Claim, with such estimate prepared by the primary attorney the Board proposes to have prosecute the Claim on its behalf; and

12.4.3. A statement advising Members that the costs and fees of prosecuting any Claim may substantially increase the amount of assessments payable by the Owners to the Association; and

12.4.4. A good-faith estimate of the manner in which any moneys reasonably anticipated to be recovered from the Claim will be distributed or paid to consultants,

expert witnesses, the Association, its attorney(s) and any others, prepared by the primary attorney the Board proposes to have prosecute the Claim on its behalf; and

12.4.5. A good faith estimate of the projected time frame for resolution of the Claim; and

12.4.6. All terms and provisions of the agreement between the Association and the attorney(s) the Board proposes to have prosecute the Claim.

12.4.7. The presence of Members or of proxies, or if by ballot then receipt by the Association of written ballots, entitled to cast seventy-five percent (75%) of all of the Association votes, shall constitute a quorum at any meeting at which the Members vote on approval of any Claim the Association wishes to bring.

Section 12.5. Required Form of Proxy or Ballot.

Each written proxy, and each ballot, which purports to vote on, or authorize a vote on, approval of the Association bringing a Claim shall contain the following statement:

Despite the fact that my annual assessments may be significantly increased by the costs and fees associated with the proposed claim, I/we APPROVE the authority of the Association to bring such claim.

Section 12.6. Exclusions from "Claim".

Unless specifically exempted by this Article, all Claims between any of the Parties shall be subject to the provisions of this Article. Notwithstanding the foregoing, unless all Parties thereto otherwise agree, "Claim" does not include the following, whether such are brought by lawsuit, counterclaim or cross-claim and the same shall not be subject to the provisions of this Article:

12.6.1. An action by the Association to enforce the provisions of Article 4 of this Declaration (Covenant for Assessments); and

12.6.2. An action by the Association to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to enforce any of the provisions of Article 10 of this Declaration (Restrictions) or of Article 5 of this Declaration (Design Review); and

12.6.3. Any suit between or among Owners, which does not include Declarant, a Builder or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

12.6.4. Any suit in which any indispensable party is not a Party.

Section 12.7. Right to Inspect.

Prior to any Party commencing any proceeding to which another Party is a party, including but not limited to an alleged defect of any Improvement, the Respondent shall have the right to be

heard by the Claimant and, if any Claimant is the Association, by the Members, and to access, inspect, correct the condition of, or redesign any portion of any Improvement as to which a defect is alleged or otherwise correct the alleged dispute; provided, however, any correction to, or redesign of, an Improvement shall be made upon terms and conditions acceptable to all affected Parties. In the exercise of the inspection rights contained herein, the Inspecting Party shall:

12.7.1. Be careful to avoid unreasonable intrusion upon, or harm, damage or costs to the affected Party including, without limitation, using its best efforts to avoid causing any damage to, or interference with, any Improvements to the Subject Property;

12.7.2. Minimize any disruption or inconvenience to any person who occupies the Subject Property;

12.7.3. Remove daily all debris caused by the inspection and located on the Subject Property; and

12.7.4. In a reasonable and timely manner, at the sole cost and expense of the Inspecting Party, promptly remove all equipment and materials from the Subject Property and repair and replace all damage, and restore the Subject Property to the condition of the Subject Property as of the date of the inspection unless the Subject Property is to be immediately repaired.

The Inspecting Party shall not permit any lien, claim or other encumbrance arising from the exercise of its right to inspect to accrue against or attach to the Subject Property. The Inspecting Party shall indemnify, defend, and hold harmless the affected Owners and their tenants, guests, employees and agents, against any and all liability, claims, demands, losses, costs and damages incurred, including court costs and attorneys' fees, resulting from any breach of this Section by the Inspecting Party.

Section 12.8. *Mandatory Procedures.*

12.8.1. *Good Faith Negotiations.* The Parties shall make every reasonable effort to meet in person and confer for the purposes of resolving the Claim by good faith negotiation. Any Party may be represented by attorneys and independent consultants to assist such Party in negotiations and to attend meetings.

12.8.2. *Notice.* Prior to proceeding with any claim against a Respondent, each Claimant shall give a notice to each Respondent, which notice shall state plainly and concisely:

12.8.2.1. the nature of the Claim, including all persons involved and Respondent's role in the Claim;

12.8.2.2. the legal or contractual basis of the Claim (i.e., the specific authority out of which the Claim arises); and

12.8.2.3. the specific relief and/or proposed remedy sought.

12.8.3. *Mediation.*



12.8.3.1. If the Parties do not resolve the Claim through negotiations within thirty days after submission of the Claim to the Respondent(s), Claimant shall have an additional thirty (30) days to submit the Claim to mediation under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Mediation Rules, as appropriate.

12.8.3.2. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any person other than the Claimant.

12.8.3.3. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If a Termination of Mediation occurs, the mediator shall issue a notice of Termination of Mediation. The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

12.8.3.4. Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator.

12.8.3.5. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 12.8.3 and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 12.8. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

12.8.4. Binding Arbitration.

12.8.4.1. Upon Termination of Mediation, if Claimant desires to pursue the Claim, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, as appropriate. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. Unless otherwise mutually agreed to by the parties to the Claim, there shall be one arbitrator who, to the extent feasible, shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

12.8.4.2. Each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding

the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the arbitrator or the court shall award reasonable attorneys' fees and expenses incurred in defending such contests, including those incurred in trial or on appeal, to the non-contesting Party. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator.

12.8.4.3. The award of the arbitrator shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all parties to the Claim.

Section 12.9. *Liability for Failure of Association to Maintain an Action*

No director or officer of the Association shall be liable to any person for failure to institute or maintain or bring to conclusion a cause of action, mediation or arbitration for a Claim if the following criteria are satisfied: (a) the director or officer was acting within the scope of his or her duties; (b) the director or officer was not acting in bad faith; and (c) the act or omission was not willful, wanton or grossly negligent.

Section 12.10. *Amendment.*

Notwithstanding anything to the contrary contained in this Declaration, this Article 12 shall not be amended unless such amendment is approved by Members to which at least eighty percent (80%) of the votes in the Association are allocated.

ARTICLE 13. GENERAL PROVISIONS

Section 13.1. *Enforcement.*

13.1.1. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, may be by any proceeding at law or in equity against any Person(s) violating or attempting to violate any such provision. Except as otherwise provided in this Declaration, the Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings subject to Article 12 of this Declaration (Dispute Resolution). For each claim, including, but not limited to, counterclaims, cross claims and third-party claims, in any proceeding to enforce the provisions of CCIOA or of the Declaration, Articles of Incorporation, Bylaws, Design Guidelines, or rules and regulations of the Association, the prevailing party shall be awarded its reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim, as well as any other remedies that may be appropriate. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

13.1.2. Subject to the following sentence, the Association shall have the right to levy and collect fines (as provided in Article 4 of this Declaration (Assessments)) for



the violation of any provision of any of the aforesaid documents. Prior to collection of any fines, the Association, the Board of Directors, or an authorized management company of the Association, shall mail a notice of violation to the Person(s) alleged to be in violation of any such provision and such notified Person(s) has a right to a hearing upon submission to the Board of Directors of a written request for hearing, which is properly signed by such Person(s) and dated, within ten (10) days after the notice of violation has been mailed or such other time as the Board of Directors may decide in its discretion from time to time; failure of a notified Person to request for hearing in writing within the required time period shall constitute a waiver of any right to a hearing.

Section 13.2. *Severability.*

All provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, are severable. Invalidation of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

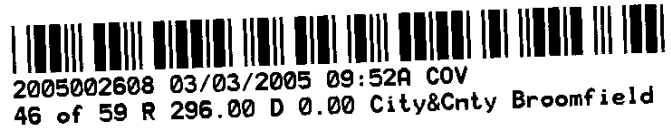
Section 13.3. *Conflict of Provisions.*

In case of any conflict between this Declaration and the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

Section 13.4. *Annexation; Withdrawal.*

13.4.1. Additional property may be annexed to this Declaration with the consent, at the time such annexation is to be effective, of Members casting sixty-seven percent (67%) of the Association votes and with the consent, at the time such annexation is to be effective, of the owner of the property to be annexed.

13.4.2. Notwithstanding the foregoing, the Declarant may annex to this Declaration the Annexable Area or any portion(s) thereof, until termination of this right as provided below, without consent of any other Owners, Security Interest Holders, or any other Person. Each annexation shall be effected, if at all, by recording an Annexation of Additional Land in the Office of the Clerk and Recorder of the City and County of Broomfield, Colorado, which document:



13.4.2.1. shall provide for annexation to this Declaration of the property described in such Annexation of Additional Land;

13.4.2.2. shall identify the owner(s) of the Lots thereby created;

13.4.2.3. shall assign an identifying number to each new Lot;

13.4.2.4. shall describe any Common Area within the property being annexed;

13.4.2.5. shall reallocate the Allocated Interests; and

13.4.2.6. may include such other provisions, and may provide for the non-applicability of one or more provisions of this Declaration, as the Declarant deems appropriate. Other provisions that may be included in an Annexation of Additional Land include, without limitation, covenants, conditions, restrictions, requirements and/or other provisions, in addition to or different from those contained elsewhere in this Declaration, that apply or will apply to some or all of the property that is thereby being annexed to this Declaration. By way of example, and not by way of limitation, additional architectural and use restrictions may be imposed on Lots. Any of such other provisions referenced in this subsection may be amended with the consent of the Owners of sixty-seven percent (67%) of the Lots to which such other provisions apply.

13.4.3. In addition to the rights contained in subsection 13.4.2 and notwithstanding anything to the contrary contained in this Declaration, the Declarant may annex to this Declaration the Annexable Area or any portion(s) thereof, until termination of this right as provided below, by recording a deed by which a Lot is conveyed by the Declarant. Each of such deeds shall be deemed to include the following provisions whether or not such provisions are contained in such deed: The Lot described in such deed shall be annexed to this Declaration; and the lot (or lot and block, as applicable) designation of such Lot shall be the identifying number assigned to such Lot; and the Allocated Interest appurtenant to such Lot shall be that fraction determined in accordance with Section 1.2 of this Declaration (Allocated Interests). Each annexation which is accomplished by recording of a deed in accordance with this subsection shall be deemed to be effective upon the date of recording of such deed. Notwithstanding the foregoing, a deed which does not convey a Lot from the Declarant shall not be an annexing deed as provided in this subsection, nor shall a deed which otherwise complies with this subsection if the same states on its face that it is not an "annexing deed" and the same is initialed by the grantor of such deed.

13.4.4. The Declarant hereby reserves the right, from time to time, to record one or more documents in order to clarify the effect of any annexation(s), including without limitation any matters contained in Sections 13.4.1, 13.4.2, and/or 13.4.3. Each such document(s), if any such document(s) are recorded by the Declarant in its discretion, may state the legal description(s) of any property which has been annexed, and may include such other provisions which the Declarant, in its discretion, may determined in



order to clarify any matter having to do with annexation of such property to this Declaration.

13.4.5. Except as otherwise specifically stated in the deed or other annexing document, all provisions of this Declaration, including, but not limited to (as to Lots), those provisions regarding obligations to pay assessments to the Association and any right to cast votes as Members, shall apply to annexed property immediately upon the date of recording of the deed or other annexing document, unless otherwise stated in such deed or other annexing document.

13.4.6. The Declarant's right to annex the Annexable Area without approval shall terminate automatically when the Special Declarant Rights terminate, as provided in Section 1.25 of this Declaration.

13.4.7. The property which is described on the attached Exhibit A and each portion of the Community which is annexed to this Declaration by the Declarant shall be subject to a right of withdrawal by the Declarant. Such withdrawal may be accomplished, if at all, in accordance with CCIOA. However, the Declarant's right to withdraw each such portion of the Community shall expire and terminate, as to each portion of the Community which has been annexed to this Declaration, upon the first conveyance of any Lot in such portion of the Community to any Person other than the Declarant, but in any event, no later than automatic termination of the Special Declarant Rights as provided in Section 1.25 hereof.

Section 13.5. *Minor Violations of Setback Restrictions*

If upon the erection of any structure, it is disclosed by survey that a minor violation or infringement of setback lines has occurred, such violation or infringement shall be deemed waived by the Owners of each Lot immediately adjoining the Lot on which is located the structure which is in violation of the setback, and such waiver shall be binding upon all other Owners. However, nothing contained in this Section shall prevent the prosecution of a suit for any other violation of the restrictions, covenants, or other provisions contained in this Declaration. A "minor violation," for the purpose of this Section, is a violation of not more than four (4) feet beyond the required setback lines or Lot lines. This provision shall apply only to the original structures and shall not be applicable to any alterations or repairs to, or replacements of, any of such structures.

Section 13.6. *Subdivision or Replatting of Lots.*

The Declarant hereby reserves the right to subdivide or replat any Lot(s) owned by the Declarant in the Community. Without limiting the generality of the foregoing, the Declarant reserves the right to move any Lot line(s) on Lot(s) owned by the Declarant, for the purpose of accommodating Improvements which are constructed or are to be constructed. The rights provided for in this Section shall terminate automatically upon termination of the Special Declarant Rights, as provided in Section 1.25 hereof. No Lot may be further subdivided from that existing at the time such Lot becomes subject to this Declaration, except by Declarant.

Section 13.7. *Declarant's and Builder's Use.*

Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant, its employees, agents, and contractors, as well as any Builder (but only with the prior written consent of the Declarant), to perform such reasonable activities, and to maintain upon portions of the Lots and the Common Area such facilities as Declarant deems reasonably necessary or incidental to the construction and sale of Lots and development and construction of Improvements. The foregoing includes, without limitation, locating, maintaining and relocating management offices, signs, model units and sales offices, in such numbers, of such sizes, and at such locations as it determines in its reasonable discretion from time to time. Further, nothing contained in this Declaration shall limit the rights of Declarant or require the Declarant to obtain approvals: (a) to excavate, cut, fill or grade any property (with the consent of the Owner thereof) or to construct, alter, demolish or replace any Improvements; (b) to use any Improvements on any property (with the consent of the Owner thereof) as a construction, management, model home or sales or leasing office in connection with the development, construction or sale of any property; and/or (c) to require Declarant to seek or obtain any approvals under this Declaration for any such activity. Any real estate used as a sales office, management office, or a model, shall be a Lot.

Section 13.8. *Duration, Revocation, and Amendment.*

13.8.1. Each and every provision of this Declaration shall run with and bind the land perpetually from the date of recording of this Declaration. Except as otherwise provided in this Declaration, this Declaration may be amended by a vote or agreement of Owners holding at least sixty-seven percent (67%) of the Allocated Interests; provided, however, while Declarant owns any portion of the property described on Exhibits A and E, no amendment may be made to this Declaration except with the affirmative vote or agreement of Owners holding ninety percent (90%) of the Allocated Interests.

13.8.2. Notwithstanding anything to the contrary contained in this Declaration, the Declaration may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to comply with the requirements, standards, or guidelines of any of the Agencies or of recognized secondary mortgage markets. Such right of amendment shall terminate automatically when the Special Declarant Rights terminate, as provided in Section 1.25 hereof.

13.8.3. Notwithstanding anything to the contrary contained in this Declaration, this Declaration, or any map or plat, may be amended in whole or in part, at any time from time to time, by the Declarant without the consent or approval of any other Owner, any Security Interest Holder, or any other Person, in order to correct clerical, typographical, or technical errors. Such right of amendment shall terminate automatically when the Special Declarant Rights terminate, as provided in Section 1.25 hereof.

13.8.4. Except as to amendments which may be made by the Declarant, amendments to the Declaration may be prepared, executed, recorded, and certified by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. Such certification shall, in the case of an amendment

requiring the approval of Owners, certify that the Association has received the requisite approvals. Amendments to this Declaration which may be made by the Declarant pursuant to this Declaration or as permitted by CCIOA, may be signed by the Declarant and shall require no other signatory.

Section 13.9. *Registration of Mailing Address.*

Each Owner and each Security Interest Holder, insurer or guarantor of a Security Interest, shall register his mailing address with the Association, and except for annual statements and other routine notices, all other notices or demands intended to be served upon an Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Lot. All notices, demands, or other notices intended to be served upon the Board of Directors or the Association during the 75% Control Period shall be sent by registered or certified mail, postage prepaid to 1805 Shea Center Drive, Suite 250 Highlands Ranch, Colorado 80129, unless such address is changed by the Association during the 75% Control Period; subsequent to termination of the 75% Control Period, the Association shall notify the Owners of a different address for notices which may be done not less often than biannually with the office of the Colorado Secretary of State.

Section 13.10. *Termination of Community.*

The Community may be terminated only in accordance with CCIOA.

Section 13.11. *Transfer of Special Declarant Rights.*

A Special Declarant Right created or reserved under this Declaration may be transferred only by an instrument evidencing the transfer recorded in every county in which any portion of the Community is located, and in accordance with CCIOA.

Section 13.12. *Eminent Domain.*

The taking by eminent domain of a Lot(s) or Common Area(s), or any portion thereof, shall be done in accordance with applicable law, including without limitation CCIOA.

Section 13.13. *Limitation on Liability.*

The Association, the Board of Directors, the Design Review Committee, the Declarant, any Builder, and the officers, directors, members, partners, agents and employees of the same, shall not be liable to any Person for any action or for any failure to act unless the action or failure to act was in bad faith and was done or withheld with malice. The release and waiver set forth in Section 13.16 of this Declaration shall apply to this Section.

Section 13.14. *No Representations, Guaranties or Warranties.*

No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant, any Builder, the Association, the Board of Directors, the Design Review Committee, or by any of their officers, directors, members, partners,

agents or employees, in connection with any portion of the Community, or any Improvement, its or their physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing. The release and waiver set forth in Section 13.16 of this Declaration shall apply to this Section.

Section 13.15. *Disclaimer Regarding Safety.*

DECLARANT, THE BUILDERS, THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE DESIGN REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OR SAFETY OF ANY PERSONS, ANIMALS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT, THE BUILDERS, THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE DESIGN REVIEW COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION, BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SECURITY, SAFETY OR PROTECTION OF PERSONS, ANIMALS OR PROPERTY WITHIN THE COMMUNITY. THE RELEASE AND WAIVER SET FORTH IN SECTION 13.16 OF THIS DECLARATION SHALL APPLY TO THIS SECTION.

Section 13.16. *Waiver.*

By acceptance of a deed to a Lot, each Owner hereby releases, waives, and discharges the Declarant, the Association, the Board of Directors, the Design Review Committee, each Builder, and their respective officers, directors, members, partners, agents and employees, heirs, personal representatives, successors and assigns, from all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from any hazards, disclosures or risks set forth in this Declaration, including without limitation, those contained in Sections 10.17, 10.18, 10.19, 13.13, 13.14, and 13.15.

Section 13.17. *Headings.*

The Article, Section and subsection headings in this Declaration are inserted for convenience of reference only, do not constitute a part of this Declaration, and in no way define, describe or limit the scope or intent of this Declaration or any of the provisions hereof.

Section 13.18. *Gender.*

Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders.

Section 13.19. *Run with Land; Binding Upon Successors.*

The benefits, burdens and all other provisions contained in this Declaration shall be covenants running with and binding upon this Community and all real property and Improvements



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EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
SPRUCE MEADOWS

(Community)

The following property as shown on the plat of Spruce Meadows Filing No. 1, recorded on May 24, 2002, at Reception No. 2002007293, in the Office of the Clerk and Recorder of the City and County of Broomfield, Colorado, as amended and supplemented from time to time:

Lot 64.



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EXHIBIT B
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
SPRUCE MEADOWS

(Common Area)

None at the time of recording of this Declaration.

EXHIBIT C *
 TO
 DECLARATION OF COVENANTS, CONDITIONS
 AND RESTRICTIONS OF
 SPRUCE MEADOWS

(Equestrian Lots including allowable number of horses per lot)

Lot Number	Number of Horses Allowed		Lot Number	Number of Horses Allowed
Lot 1	2		Lot 38	0
Lot 2	2		Lot 39	0
Lot 3	2		Lot 40	0
Lot 4	2		Lot 41	0
Lot 5	2		Lot 42	0
Lot 6	0		Lot 43	0
Lot 7	0		Lot 44	0
Lot 8	TBD		Lot 45	0
Lot 9	TBD		Lot 46	0
Lot 10	TBD		Lot 47	0
Lot 11	TBD		Lot 48	0
Lot 12	TBD		Lot 49	0
Lot 13	TBD		Lot 50	0
Lot 14	TBD		Lot 51	2
Lot 15	TBD		Lot 52	2
Lot 16	TBD		Lot 53	0
Lot 17	TBD		Lot 54	0
Lot 18	TBD		Lot 55	0
Lot 19	TBD		Lot 56	0
Lot 20	TBD		Lot 57	0
Lot 21	TBD		Lot 58	0
Lot 22	TBD		Lot 59	0

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* This Exhibit C is subject to amendment and/or supplementation as more fully provided in the Declaration.



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Lot 23	TBD		Lot 60	0
Lot 24	TBD		Lot 61	2
Lot 25	TBD		Lot 62	2
Lot 26	TBD		Lot 63	2
Lot 27	TBD		Lot 64	2
Lot 28	0		Lot 65	2
Lot 29	0		Lot 66	2
Lot 30	0		Lot 67	2
Lot 31	0		Lot 68	2
Lot 32	0		Lot 69	2
Lot 33	0		Lot 70	2
Lot 34	0		Lot 71	2
Lot 35	0		Lot 72	2
Lot 36	0		Lot 73	0
Lot 37	0			

* This Exhibit C is subject to amendment and/or supplementation as more fully provided in the Declaration.

EXHIBIT D
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
SPRUCE MEADOWS

(Certain Title Exceptions)

If recorded, the following documents are recorded in the office of the Clerk and Recorder of the City and County of Broomfield, Colorado:

1. Taxes and assessments for the year of recording of this Declaration and for subsequent years, not yet due and payable.
2. Oil and Gas Lease by and between Ralph C. Spruce and Petrogialf Energy Company, recorded September 2, 1981 in Book 2583 at Page 471, and all assignments or declarations thereto or interests therein.
3. Oil and Gas Lease by and between Ralph C. Spruce and Petrogialf Energy Company recorded December 3, 1981 in Book 2604 at Page 835 and all assignments, declarations and ratifications thereto or interests therein.

Note: Extension of Lease Term recorded September 5, 1986 in Book 3194 at Page 996.

Note: Amendment of Lease recorded December 3, 1991 in Book 3842 at Page 63, December 16, 1991 in Book 3846 at Page 466 and January 3, 1992 in Book 3852 at Page 237.

Note: Affidavit of Extension of Oil and Gas Lease by Production recorded July 27, 1994 in Book 4362 at Page 441.

4. Terms, agreements, provisions, conditions and obligations as contained in Resolution Concerning Road Construction recorded May 3, 1983 in Book 2742 at Page 839.
5. Easement granted to Mile High Water Company, a Colorado nonprofit corporation, recorded August 10, 1987 in Book 3353 at Page 677 and modified by that certain Easement Modification Agreement recorded February 24, 2005 at Reception No. 2005002306.
6. Minerals as conveyed in Mineral Deed from The Ralph C. Spruce Family Trust under Agreement dated October 9, 1985, by Norman L. Spruce, Trustee, to Ralph Clyde Spruce, as to a one-third undivided interest; Norman L. Spruce and Alice F. Spruce, as to a one-third undivided interest; and The Spruce Investment Co., a general partnership, as to a one-third undivided interest, recorded January 2, 1990 in Book 3635 at Page 313, and all assignments thereto or interests therein.

Note:

(A) Deed from Normal L. Spruce and Alice F. Spruce to The Spruce Family Trust, UA dtd. January 30, 1990, recorded February 1, 1990 in Book 3644 at Page 27.

7. Terms, agreements, provisions, conditions and obligations as contained in Notice of General Description of Area Served by Martin Exploration Management Company Concerning Underground Facilities, recorded April 13, 1992 in Book 3890 at Page 528.
8. Terms, agreements, provisions, conditions and obligations as contained in Certificate of Organization for the Northwest Parkway Public Highway Authority recorded June 30, 1999 in Book 5807 at Page 636 and rerecorded November 19, 1999 in Book 5958 at Page 658.
9. The effect of ZONING HEARING DECISION – CASE #PRJ200-00010 SPRUCE MEADOWS by instrument recorded August 3, 2000 in Book 6238 at Page 142.
10. Mineral reservation as contained in United States Patent recorded September 13, 1897 in Book 1171 at Page 208 (Arapahoe County records).
11. Easement and Right of way for reservoir and ditches as granted to The Community Consolidated Canal and Reservoir Company by Denver Land Company in instrument recorded July 29, 1908 in book 33 at Page 338, in which the specific location is not defined.
12. The rights of The Community Consolidated Canal and Reservoir Company were deeded to The Farmers Reservoir and Irrigation Company in instrument recorded April 23, 1923 in Book 119 at Page 69.
13. Easement and Right of way for construction and maintenance of a natural gas pipeline and for all other purposes necessary in connection with the transportation of oil, gas and other hydrocarbons by said pipeline, granted to Martin Exploration Management Company in instrument recorded July 10, 1987 in Book 3341 at Page 835.
14. The effect of Ordinance No. 1605, annexing 792 acres of land into Broomfield County, recorded October 25, 2001 at Reception No. C0877194, and Annexation Map File 18, Map 551 at Reception No. C0877195, Adams County records.
15. The effect of Ordinance No. 1633, annexing 178.57 acres of land into Broomfield County, recorded November 14, 2001 at Reception No. C0887085 and Spruce Meadows Annexation Map File 18, Map 566 at Reception No. C0887086, Adams County records.
16. Terms, agreements, provisions, conditions and obligations as contained in Memorandum of Agreement recorded September 24, 2003 as Reception No. 2003019041.
17. Terms, agreements, provisions, conditions and obligations as contained in Subdivision Agreement recorded May 24, 2002 as Reception No. 2002007294.
18. Terms, agreements, provisions, conditions and obligations as contained in Annexation Agreement recorded May 24, 2002 as Reception no. 2002007292.
19. Terms, agreements, provisions, conditions and obligations as contained in Right of Way Easements and Licenses, Quit Claim Deed recorded February 20, 2003 as Reception No. 2003003281.

20. Terms, agreements, provisions, conditions and obligations as contained in Order and Decree Organizing Spruce Meadows Metropolitan District recorded May 27, 2004 at Reception No. 2004007725.
21. Terms, agreements provisions, conditions and obligations as contained in Grant of Non-Exclusive Utility Easement recorded August 2, 2004 at Reception No. 2004011529.
22. Right(s) of way, including its terms and conditions, whether in fee or easement only, for electric facilities, as granted to United Power, Inc., in instrument recorded September 22, 2004 at Reception No. 2004014187, said easements are described as follows: Lot 1, as strip 10 feet wide, 5 feet on each side of the centerline over, across and through Lot 1, the centerline of which is more fully described in said instrument, and a 10 foot easement, described as the South 10 feet of the 20 foot Equestrian Easement located adjacent to the South boundary line of Lot 62, Lot 63, Lot 64, Lot 65, Lot 67 and Lot 68; and the North 10 feet of the South 30 feet of Lot 73.
23. The recorded plat of Spruce Meadows Filing No. 1, as amended and supplemented.
24. Terms, agreements, provisions, conditions and obligations as contained in Surface Use Agreement dated July 29, 2004 recorded October 20, 2004 at Reception No. 2004015541.
- 25 Terms , agreements, provisions, conditions and obligation as contained in Non-Exclusive Pipeline Easement recorded March 3, 2005 at Reception No. 2005002606.
- 26 Terms, agreements, provisions, conditions and obligations as contained in Easement Agreement recorded March 3, 2005 at Reception No. 2005002607.



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EXHIBIT E
TO
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
SPRUCE MEADOWS

(Part of Annexable Property)

All property shown on the plat of Spruce Meadows Filing No. 1, recorded on May 24, 2002, at Reception No. 2002007293, in the Office of the Clerk and Recorder of the City and County of Broomfield, Colorado, as amended and supplemented from time to time, EXCEPTING AND EXCLUDING the property described on Exhibit A to this Declaration.